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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,045	12/22/2004	Gene Stull	43555-10US1(20392)	6613

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Robert E Cannuscio
Drinker Biddle & Reath
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103-6996

EXAMINER

SMALLEY, JAMES N

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/519,045

Applicant(s)

STULL ET AL.

Examiner

James N. Smalley

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/04, 11/05, 2/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8-10, 13-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruetz US 3,136,458 in view of Dark US 6,330,959.

Ruetz '458 teaches a container (read by the Examiner to comprise neck (1) and an unlabeled bushing) and closure, a container neck, a plurality of upwardly extending teeth (13) with camming surfaces and oppositely sloped edges, and cap (7) with a side skirt (unlabeled), circumferential plug seal (9) to seal the container neck inner wall (4), a plurality of downwardly extending engaging members (11) having camming surfaces, and a retaining rib (8) to engage a retaining bead (6') on a container neck.

Ruetz '458 fails to teach a tamper evident band.

Dark '959 teaches it is known to provide a tamper evident ring (30) on a quick-twist closure. The band is held from the end of the cap by tapered bridges (32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the closure of Ruetz '458, providing the tamper evident ring taught by Dark '959, motivated by the benefit of providing an indication of tampering.

3. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruetz US 3,136,458 in view of Dark US 6,330,959 as applied to claims 5 and 17 above, and further in view of Pierpoint US 6,068,421.

Ruetz '458, as modified, fails to teach a sharp point of inflection.

Pierpoint '421, in the embodiment of figures 4-6, teaches it is known to provide sharp points of inflection (50) and (52) on cams in order to twist off a closure from a container.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ramps of Ruetz '458, providing sharp points of inflection, as taught to be known by Pierpoint '421, and because such is a mere change in the shape of the working parts of the invention. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

4. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruetz US 3,136,458 in view of Dark US 6,330,959 as applied to claims 5 and 17 above, and further in view of Braun et al. US 3,982,651.

Ruetz '458, as modified, fails to teach a sharp point of inflection.

Braun '651 teaches it is known to provide rounded points of inflection (22), (24), (32) and (34) on cams in order to twist off a closure from a container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ramps of Ruetz '458, providing rounded points of inflection, as taught to be known by Braun '651, and because such is a mere change in the shape of the working parts of the invention. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

5. Claims 11-12 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruetz US 3,136,458 in view of Dark US 6,330,959 as applied to claims 1 and 14 above, and further in view of Baum US 1,615,157.

Ruetz '458, as modified, does not teach gripping ridges on the skirt or outer surface of the closure cap.

Baum '157 teaches it is known to provide gripping ridges on a closure cap outer surface and skirt, for the purposes of improving a user's grip in twisting off the closure to remove it from a container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the closure cap of Ruetz '458, providing the gripping ridges taught by Baum '157,

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motivated by the benefit of providing means to improve a user's grip when removing the closure from the container.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on M-Th 9-6:30, Alternate Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER